

[PROPOSED] Rule 5007-1

RECORD OF PROCEEDINGS AND TRANSCRIPTS

(a) **Digital Audio Recording.** The Judicial Conference approved the use of electronic sound recording equipment as a means of recording proceedings in federal district and bankruptcy courts effective January 1, 1984. In September 1999, the Judicial Conference specifically approved the use of digital audio recording technology as a means of taking the official record. Subsequently, several courts in the Middle District of Florida implemented digital audio recording systems which may be informally reviewed by parties without requiring a request or payment for a written transcript. Recorded data is stored on a digital media storage device. Information regarding the cost to obtain a digital audio recording may be obtained through the Court's website at: <http://www.flmb.uscourts.gov/technology/>. The required software (FTR Player) may be obtained at no charge at www.ftrgold.com.

(b) **Written Transcripts.** In certain circumstances, such as in all appeals, a written transcript is necessary. Appellate courts need a written transcript prepared by an experienced and competent court reporter in order to quickly locate record citations and to provide confidence that all parties, lawyers, and judges are reviewing the identical testimony and rulings. To obtain written transcripts from digital recordings of Court proceedings, parties shall follow these procedures:

(1) **Perfecting Record on Appeal.** A written transcript of a digitally recorded proceeding is required if any party desires to transmit a record of any Court proceeding in connection with an appeal. The digital record as contained on a CD is not an acceptable substitute.

(2) **Authorized Court Reporters.** Written transcripts from digital recordings of Court proceedings shall be prepared by a person or a transcription firm designated and supervised by the Court. Court reporters authorized to prepare official transcripts are listed on the website for the Bankruptcy Court for the Middle District of Florida at: <http://www.flmb.uscourts.gov/courtreporters/>.

(3) **Official Transcripts.** No transcripts shall be deemed official or filed with the Court unless the transcript is prepared and certified by one of the approved court reporters or by separate order of the Court.

(4) **Authentication and Certification.** The person or transcription firm designated to transcribe the proceedings recorded by electronic sound recording must authenticate the original transcript and each copy with a certification on the last page.

(5) **Requests for Transcripts.** To obtain a transcript of a digitally recorded Court proceeding, a fax indicating the hearing date, case name and number, and whether the request is expedited or regular delivery must be submitted to the

courtroom administrator. After the request has been received, a copy of the hearing will be sent directly to the Court approved transcription firm.

(6) ***Payment for Transcripts.*** The transcription firm may require the requesting party to pay in advance the charge for preparation of the transcript. The transcription firm will contact the party requesting the transcript when the transcript is available.

(7) ***Records of Transcript Orders.*** Court personnel will maintain records of all transcript orders to ensure compliance with all regulations regarding timely preparation, format, and fees charged.

(8) ***Request Forms.*** Parties may request digital recordings of Court proceedings by filling out the request form found online for each Judge's Chambers at: <http://www.flmb.uscourts.gov/technology/>. Digital media shall not substitute for a formal written transcript. The Court will contact the requesting party when the digital copy or CD of the requested hearing is available. The requesting party currently must pay the current fee before the digital copy will be released. The Court encourages parties to remit full payment when the request is made.

(c) ***Transcript Copies Restricted for 90 Days.*** The Judicial Conference of the United States has a national policy addressing electronic availability of transcripts of Court proceedings filed with the Court. The Judicial Conference Policy on Electronic Availability of Transcripts applies to any transcript of a Court proceeding that is subsequently filed with the Court and made available to the public via electronic access. The Judicial Conference of the United States has revised the policy to restrict the copying of a transcript for 90 days after delivery to the Clerk's office. The following procedures are in accordance with the policy and effective for any transcript filed on or after June 15, 2007.

(1) ***Restricted Access to Court Staff.*** Transcripts of Court proceedings may only be filed by the court reporter. Transcripts shall, at the time of the initial filing, be docketed in the Court record for that case utilizing a "private" event code which restricts access to the filed transcript to Court staff only.

(2) ***Deadline for Request for Notice of Intent to Request Redaction.*** Upon the docketing of the transcript as set forth in paragraph (1), the Clerk shall prepare and serve on all parties listed as appearances on the transcript a form "Notice Regarding Filing of Transcript and Deadline for Filing Notice of Intent to Request Redaction of Transcript" (Appendix A) which shall establish a deadline of seven calendar days from docketing of the transcript, for the filing of a local form "Notice of Intent to Request Redaction of Transcript" (Appendix B). A party is responsible for reviewing and indicating redactions in the testimony of the witnesses that party called and for the party's own statements.

(3) ***Deadline for Personal Data Identifier Redaction Request.*** Parties timely filing the local form "Notice of Intent to Request Redaction of Transcript" shall, within 21 calendar days of the date the transcript was docketed, unless otherwise ordered by the Court, file a "Statement of Personal Data Identifier Redaction Request" ("Statement") which shall indicate, by page and line number, the location of the personal data identifiers for which redaction is being requested. For purposes of this procedure, personal data identifiers shall include: social security numbers, financial account numbers, names of minor children, and dates of birth. Since the "Statement" once filed, will appear as a public document on the docket, the "Statement" should be worded so as not to contain unredacted personal identifiers. A copy of the "Statement" shall be served on the court reporter. Only these personal identifiers may be automatically redacted as provided by paragraph (8) below. Parties seeking to redact other information shall file a motion as required under paragraph (5) below.

(4) ***Review of Unredacted Transcripts.*** Parties to the case who are (or represent) persons whose personal data identifier may appear in the transcript and who wish to review the unredacted transcript may either purchase a copy of the transcript from the court reporter or view a copy of the transcript at no charge in any of the Clerk's three divisional offices located in Tampa, Jacksonville and Orlando.

(5) ***Motion for Additional Redactions.*** Any party who filed a "Notice of Intent to Request Redaction of Transcript" during the seven calendar day period set forth in paragraph (2) above may also file, within the 21 calendar day period set forth in paragraph (3) above, a "Motion for Additional Redactions" to request redaction of information other than personal data identifiers. If appropriate, the motion should be filed in accordance with Local Rule 5005-4 "Sealed Documents." A copy of the motion shall be served on the court reporter.

(6) ***Failure to File Notice of Intent to Request Redaction of Transcript.*** If a "Notice of Intent to Request Redaction of Transcript" is not filed within the initial seven calendar day deadline set forth in paragraph (2) above and 90 days from the date of filing of the transcript has passed, the unredacted transcript will appear on the docket as a public document available electronically to the public in accordance with existing policies and subject to applicable access fees, unless the Court, for good cause related to the Judicial Conference policy, finds that the transcript should not be made remotely available electronically for up to a period of 60 calendar days from the date the unredacted transcript was originally filed by the court reporter.

(7) ***Failure to File Statement or Motion for Additional Redactions.*** If a "Statement" or "Motion for Additional Redactions" is not filed within the 21 calendar day deadline set forth in paragraphs (3) and (5) above and 90 days from the date of filing of the transcript has passed, the unredacted transcript will appear on the docket as a public document available electronically to the public in accordance with existing policies and subject to applicable access fees, unless the Court, for good cause related to the application of the Judicial Conference policy, finds that the transcript should not be made

remotely available electronically for up to a period of 60 calendar days from the date the unredacted transcript was originally filed by the court reporter.

(8) ***Partial Redaction.*** If a "Notice of Intent to Request Redaction of Transcript" has been filed and subsequently a "Statement" is filed within the 21 calendar day deadline set forth in paragraph (3), the court reporter shall, as follows, partially redact the personal data identifiers in the "Statement" for:

- (i) Social Security numbers, use only the last four digits;
- (ii) Financial account numbers, use only the last four digits;
- (iii) Names of minor children, use only their initials; and
- (iv) Dates of birth, use only the year.

(9) ***Court Reporter's Amended Certification of Redaction.*** Once a "Statement" is filed, the court reporter has 31 calendar days from the date of the filing of the transcript to file a redacted transcript with an amended certification indicating that the transcript was amended by the redaction of certain personal identifiers at the request of the parties.

(10) ***Restrictions on Transcripts after Motion for Additional Redactions.*** If a "Motion for Additional Redactions" was filed within the 21 calendar day deadline set forth in paragraph (5) above, or if the Court has extended the deadline, the transcript shall remain restricted until the Court has ruled upon any such motion and 90 days from the date of filing of the transcript has passed.

(11) ***Clerk as Custodian of Unredacted Transcript.*** If a transcript is redacted, the initially filed unredacted transcript shall be maintained by the Clerk as a restricted document, not accessible by parties to the case or the general public. This unredacted transcript shall, if requested, be made available to an appellate court.

(12) ***Duties and Limitations.***

(i) ***Court Reporter's Duty.*** The policy does not affect in any way the obligation of the court reporter to file promptly with the Clerk of Court the court reporter's original records of a proceeding or the inclusion of a filed transcript with the records of the Court pursuant to 28 U.S.C. Section 753.

(ii) ***Clerk's Duty.*** Except for a period of 90 days after delivery of the official transcript, this policy does not affect the obligation of the Clerk to make the official transcript included in the Court file available for copying by the public without further compensation to the court reporter pursuant to Judicial Conference policy.

(iii) ***No Private Right of Action.*** This policy is not intended to create a private right of action.

(iv) ***Applicability Limited.*** This policy is intended to apply the Judicial Conference policy on privacy and public access to electronic case files to transcripts that are electronically available to the public. It is not intended to change any rules or policies with respect to sealing or redaction of Court records for any other purpose.

(v) ***Expedited Requests.*** This policy does not prevent the production of a transcript on an expedited basis for a party, or any other person or entity, that may order such a transcript, subject to whatever Court rules or orders are currently imposed to protect sealed materials. Any non-party that orders a transcript on an expedited basis should be alerted to the Judicial Conference policy on privacy and public access to electronic case files by the entity providing the transcript to the party.

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
DIVISION**

**IN RE:
JOHN S. DOE**

Case Number:

Debtor*

**NOTICE REGARDING FILING OF TRANSCRIPT AND DEADLINE FOR
FILING NOTICE OF INTENT TO REQUEST REDACTION OF TRANSCRIPT**

Notice is hereby given that an official transcript of a proceeding held on _____ 2011, has been filed on _____, 2011 by the court reporter in the above captioned matter.

Under Local Rule 5077-1, within seven calendar days of the date of service of this notice, the parties shall file with the Court a local form "Notice of Intent to Request Redaction of Transcript." Parties timely filing the local form "Notice of Intent to Request Redaction of Transcript" shall, within 21 calendar days of the date the transcript was docketed, unless otherwise ordered by the Court, file a "Statement of Personal Data Identifier Redaction Request" which shall indicate, by page and line number, the location of the personal data identifiers for which redaction is being requested. Since the "Statement" once filed, will appear as a public document on the docket, the "Statement" should be worded so as not to contain unredacted personal identifiers.

Parties seeking to review the unredacted transcript filed with the Court may either purchase a copy of the transcript from the court reporter or view a copy of the transcript at no charge in any of the Clerk's three divisional offices located in Jacksonville, Tampa and Orlando.

If a "Notice of Intent to Request Redaction of Transcript" has not been filed by the deadline indicated above, absent further order of the Court, the transcript will be made available on the docket as a publicly accessible document, subject to applicable access charges.

DATED on_____.

FOR THE COURT

LEE ANN BENNETT, Clerk of Court
Sam M. Gibbons United States Courthouse
801 North Florida Avenue, Suite 555
Tampa, Florida 33602

*All references to "Debtor" shall include and refer to both debtors in a case filed jointly by two individuals.

Copies to:

APPENDIX A

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
DIVISION**

IN RE:
JOHN S. DOE
Debtor*

Case Number:

**NOTICE REGARDING FILING OF TRANSCRIPT AND DEADLINE FOR FILING
NOTICE OF INTENT TO REQUEST REDACTION OF TRANSCRIPT**

Notice is hereby given that a Statement of Personal Data Identifier Redaction Request and/or a Motion for Additional Redactions with respect to the official transcript of the proceeding held on _____, in the above referenced case or proceeding will be filed with the Court within 21 calendar days from the date the unredacted transcript was filed by the court reporter with the Clerk of Court.

Name

Address

City, State, Zip Code

Appearing on behalf of

DATED _____.

FOR THE COURT

LEE ANN BENNETT, Clerk of Court
Sam M. Gibbons United States Courthouse
801 North Florida Avenue, Suite 555
Tampa, Florida 33602

*All references to "Debtor" shall include and refer to both debtors in a case filed jointly by two individuals.

Copies to:

APPENDIX B

Notes of Advisory Committee

2011

This Rule incorporates archived Administrative Orders FLMB-2009-7, TPA-2005-17 and ORL-2006-1.